



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
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WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

January 11, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

REPORT BACK ON LEGISLATIVE POLICY EFFORTS TO CLEARLY DEFINE WHAT A NON-SERIOUS, NON-VIOLENT, NON-SEX (N3) FELON IS IN THE DISCHARGE OF INDIVIDUALS UNDER AB 109 OF 2011 (ITEM NO. 38, AGENDA OF JANUARY 15, 2013)

Item No. 38 on the January 15, 2013, Board Agenda is report back to a December 11, 2012 motion which directed the Chief Executive Office to provide a report on language to include in the County's legislative policy efforts to clearly define what a N3 felon is in the discharge of individuals under AB 109.

AB 109 Eligibility Criteria Under Existing Law

The 2011 Public Safety Realignment (AB 109 of 2011 and other implementing legislation) clearly defines the specific criteria for offenders released from State prison to counties under Post-Release Community Supervision (PRCS). To be eligible for PRCS, prison inmates must not be serving a current sentence for:

- serious or violent offenses such as murder, rape, assault with a deadly weapon, robbery, or carjacking and other offenses as defined by Penal Code sections 1192.7 (serious) and 667.5 (violent).
- crimes that require an offender to register as a sex offender under Penal Code Section 290 or are classified as a High Risk Sex Offender.

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Inmates that have been certified as a Mentally Disordered Offender during their current commitment are not eligible for PRCS and remain under State supervision.

It is important to note that one of the fundamental problems identified by the Board and other criminal justice stakeholders is that an inmate's previous criminal history status is not considered in the eligibility assessment for PRCS. As a result, individuals with previous serious and/or violent convictions are released to county supervision as long as their current commitment fits the existing PRCS criteria as prescribed by State law. Inmates that do not meet the PRCS eligibility criteria are released to the supervision of State Parole. It is also important to note that the applicable Penal Code sections for serious, violent and registrable sex offenses were developed for sentencing and sentencing enhancement purposes and were not designed to necessarily *define* a serious, violent or sex offense.

Previous Legislative Efforts and Existing County Policy

In September 2011, the Chief Executive Officer and representatives from the Sheriff's Department, Probation and the Department of Mental Health traveled to Sacramento to meet with members of the Governor's Administration and the California Department of Corrections and Rehabilitation (CDCR) to discuss a number of concerns identified by the Board and affected departments in regards to AB 109. Those concerns included the eligibility criteria for PRCS and the lack of consideration of an individual's previous serious or violent criminal history. A subsequent meeting was held with the Administration in January 2012 to again outline the County's concerns related to AB 109 and, specifically, the criteria for PRCS. The attachment contains the letter to the Governor's Executive Secretary outlining the County's position.

Additionally, on November 15, 2011, the Board directed the Chief Executive Office, County departments and the Sacramento Advocates to protect the County from receiving violent offenders and to seek legislative change to amend the criteria under AB 109.

As a result of the November 2011 Board motion, last year the County took a support position on SB 1150 (Dutton) which would have amended the eligibility criteria for PRCS and prevented anyone released from State prison with a prior conviction for a serious or violent felony, a crime for which the person received a third strike, or a crime that resulted in the person being classified as a High Risk Sex Offender from being released to PRCS. The County advocated in support of SB 1150. However, SB 1150 failed passage in the Senate Committee on Public Safety in April 2012.

The County's State Legislative Agenda includes the following policy:

Support legislation that would amend the criteria for Post-Release Community Supervision under AB 109 to consider a State prison inmate's past violent or serious criminal history or history of sexual offenses.

The inclusion of this policy will allow the Sacramento advocates to continue supporting legislation that amends the N3 eligibility criteria for PRCS and considers an individual's past criminal history in the criteria for County supervision.

Next Steps

This Office and the Sacramento advocates will continue to engage the Administration and Legislative Leadership on the issue of the N3 criteria, as directed by the Board, and will work with counties, statewide organizations, including the Chief Probation Officers of California and the California State Sheriff's Association, and other stakeholders to explore alternatives to the current AB 109 eligibility criteria to address the most appropriate level of supervision for these offenders including a risk-based approach.

This Office and the Sacramento advocates will also pursue any legislative or administrative imperatives related to the issue of AB 109 eligibility criteria as directed by the Board.

We will continue to keep you advised.

WTF:RA
MR:KA:ma

Attachment

c: Executive Office, Board of Supervisors
County Counsel



WILLIAM T FUJIOKA
Chief Executive Officer

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Attachment

January 9, 2012

James M. Humes
Executive Secretary, Administration, Legal Affairs and Policy
Office of Governor Edmund G. Brown, Jr.
State Capitol
Sacramento, CA 95814

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
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MICHAEL D. ANTONOVICH
Fifth District

Dear Mr. Humes:

I would like to thank you for meeting with me and staff from Los Angeles County last week. I believe it was a productive meeting and we appreciate your time.

In follow-up to our discussion, I want to reiterate how pleased we have been with the attention received from the Administration over the past couple of months regarding our concerns on issues related to Public Safety Realignment. Again, technical clean-up will be required for Los Angeles to effectively implement realignment, and I am encouraged that we will have your full attention and consideration on these crucial matters as we move further into the legislative session.

As I discussed in our meeting, the County has significant concerns with the criteria by which individuals released from prison are placed on either Parole or Post-Release Community Supervision (PRCS). The County strongly believes that individuals with criminal histories, including serious, violent or sex offenses, should remain on Parole upon release from State prison. In addition, we believe that individuals who have ever been designated as a Mentally Disordered Offender (MDO), a Mentally Disordered Sex Offender (MDSO), or who were convicted of any sex offense, should remain under Parole supervision.

The County has also experienced ongoing issues obtaining information, specifically mental health information, for individuals being released to PRCS. We, therefore, respectfully urge that CDCR establishes one clearinghouse that serves as a point of contact for PRCS pre-release and mental health information. If it is not possible to accommodate this request, at the very least, we ask that CDCR ensures uniform cooperation with the established process for releasing information across its 33 prison facilities.

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James M. Humes
January 9, 2012
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The technical clean-up issues that we have identified are important and need to be addressed to ensure effective implementation of public safety realignment. As we indicated, establishing subpoena power for the revocation process, including statutory language to allow Sheriffs' Departments to collect restitution and other court-ordered financial obligations, and statutory language that addresses competency issues during the revocation process is very important to our County.

We also believe that more time must be given to allow for data collection and to determine a fair and equitable funding allocation methodology.

Finally, Los Angeles County firmly believes that the trigger reduction related to the Department of Juvenile Justice (DJJ) that was enacted in December will place a significant burden on county probation departments and will seriously impede our ability to implement realignment. We fully support your Office's decision to defer this trigger reduction in an effort to find alternative options.

Thank you again for your time and attention these past few months. I look forward to continued dialogue with you and the Administration on these issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'WTF', with a stylized flourish at the end.

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:er